

Order

Michigan Supreme Court
Lansing, Michigan

July 19, 2006

Clifford W. Taylor,
Chief Justice

130590

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 130590
COA: 267331
Wayne CC: 02-006650-01

FRANK DAVID MILLER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the February 6, 2006 order of the Court of Appeals is considered. The defendant alleges that after appointed appellate counsel missed the jurisdictional deadline for filing an application for leave to appeal to the Court of Appeals, counsel filed a motion for relief from judgment without the defendant's permission. The defendant further alleges that he did not discover these facts until after the Court of Appeals denied the application for leave to appeal the denial of counsel's motion for relief from judgment. Assuming, without deciding, that these allegations are true, defendant still must meet the requirements of MCR 6.508(D). Accordingly, the defendant's application for leave to appeal is DENIED, because he has failed to meet the burden of establishing entitlement to relief under MCR 6.508(D).

KELLY, J., would remand this case for a hearing pursuant to *People v Ginther*, 390 Mich 436 (1973).



d0712

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 19, 2006

Corbin R. Davis

Clerk